Intermec Technologies Corp. v. Palm, Inc. Doc. 139

UNITED STATES
JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

Apr 10, 2009

FILED
CLERK'S OFFICE

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

IN RE: ONLINE DVD RENTAL ANTITRUST LITIGATION MDL No. 2029

TRANSFER ORDER

Before the entire Panel[*]: Plaintiffs in one Northern District of California action have moved, pursuant to 28 U.S.C. § 1407, for coordinated or consolidated pretrial proceedings of this litigation in the Northern District of California. All defendants and plaintiffs in 35 actions and potentially-related actions support the motion. Plaintiffs in nine potentially-related actions variously support centralization in the Northern District of Alabama, the Northern District of Illinois, the Southern District of Illinois, the Eastern District of Louisiana, the Middle District of Louisiana, the Eastern District of New York, the Northern District of Ohio, the District of Puerto Rico, or the Southern District of West Virginia.

This litigation currently consists of twelve actions listed on Schedule A and pending in two districts, eleven actions in the Northern District of California and one action in the Western District of Washington.[1]

On the basis of the papers filed and hearing session held, we find that these actions involve common questions of fact, and that centralization under Section 1407 in the Northern District of California will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. These actions share factual questions arising out of allegations that defendants conspired to divide the online DVD rental market in violation of federal antitrust laws. Centralization will eliminate duplicative discovery; prevent inconsistent pretrial rulings, including with respect to class certification; and conserve the resources of the parties, their counsel, and the

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[*] Certain Panel members who could be members of the putative nationwide classes in this litigation have renounced their participation in these classes and have participated in the decision.

[1] The Panel has been notified that 43 additional related actions have been filed: 27 actions in the Northern District of California; two actions in the Northern District of Alabama and the Northern District of Illinois; and one action each in the Middle District of Florida, the Southern District of Illinois, the Southern District of Indiana, the Eastern District of Louisiana, the Middle District of Louisiana, the District of Minnesota, the District of New Hampshire, the Eastern District of New York, the Northern District of Ohio, the District of Puerto Rico, the District of Vermont, and the Southern District of West Virginia. These actions will be treated as potential tag-along actions. *See* Rules 7.4 and 7.5, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001).

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judiciary.

We are persuaded that the Northern District of California is an appropriate transferee forum for this litigation. The vast majority of the actions are already pending in the Northern District of California before Judge Phyllis J. Hamilton. Moreover, two of the defendants are headquartered in that district and, accordingly, relevant documents and witnesses are likely located there.

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, the action listed on Schedule A and pending outside the Northern District of California is transferred to the Northern District of California and, with the consent of that court, assigned to the Honorable Phyllis J. Hamilton for coordinated or consolidated pretrial proceedings with the actions pending there and listed on Schedule A.

PANEL ON MULTIDISTRICT LITIGATION

John G. Heyburn II
Chairman

J. Frederick Motz	Robert L. Miller, Jr.
Kathryn H. Vratil	David R. Hansen
W. Royal Furgeson, Jr.	Frank C. Damrell, Jr.

IN RE: ONLINE DVD RENTAL ANTITRUST LITIGATION MDL No. 2029

SCHEDULE A

Northern District of California

Andrea Resnick, et al. v. Walmart.com USA LLC, et al., C.A. No. 3:09-2
Michael O'Connor v. Walmart.com USA LLC, et al., C.A. No. 3:09-96
Sarah Endzweig v. Walmart.com USA LLC, et al., C.A. No. 3:09-111
Christopher P. Schmitz v. Walmart.com USA LLC, et al., C.A. No. 3:09-116
Scott Lynch, et al. v. Walmart.com USA LLC, et al., C.A. No. 3:09-138
Jonathan Groce, et al. v. Netflix, Inc., et al., C.A. No. 3:09-139
Liza Sivek v. Walmart.com USA LLC, et al., C.A. No. 3:09-156
Armond Faris v. Netflix, Inc., et al., C.A. No. 3:09-180
Suzanne Slobodin v. Netflix, Inc., et al., C.A. No. 3:09-225
Katherine M. Anthony, et al. v. Walmart.com USA LLC, et al., C.A. No. 3:09-236
Melanie Polk-Stamps v. Netflix, Inc., et al., C.A. No. 3:09-244

Western District of Washington

Stan Magee v. Netflix, Inc., et al., C.A. No. 2:09-70